

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Jerome Eugene Todd,)	
)	C/A No. 6:19-2352-MBS-KFM
Plaintiff,)	
)	
vs.)	
)	
United States Department of Justice,)	ORDER AND OPINION
Federal Bureau of Prisons, United States,)	
Paralegal Specialist,)	
)	
Defendants.)	
_____)	

Plaintiff Jerome Eugene Todd is an inmate in custody of the Federal Bureau of Prisons (BOP) and housed at FCI-Estill in Estill, South Carolina. Plaintiff filed a complaint on August 19, 2019, asserting claims pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1999), and the Federal Tort Claims Act. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling.

On September 30, 2019, Plaintiff filed a motion for a temporary restraining order. Plaintiff contends he is being denied access to his trust fund account so that his filings are not being mailed in a timely fashion and he is missing various court deadlines. He asserts that he is in imminent danger because he is being targeted for exercising his fundamental rights. Plaintiff also contends that the BOP trust fund account policy discriminates against him on account of his race.

On October 3, 2019, the Magistrate Judge issued a Report of Magistrate Judge in which he determined Plaintiff has provided nothing to substantiate the allegations he makes in his complaint or his motion for temporary restraining order regarding the harm he will suffer if Defendants

continue to oversee the indigent mail and/or trust fund accounts. The Magistrate Judge also noted that any allegations by Plaintiff that he is subject to imminent harm or discriminated against because of his race are without support in the record. The Magistrate Judge determined that Plaintiff is not likely to succeed on the merits of his claims. See Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008) (“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.”). Thus, the Magistrate Judge recommended that Plaintiff’s motion for a temporary restraining order be denied. Plaintiff filed objections to the Report of Magistrate Judge on October 17, 2019. On October 21, 2019, Plaintiff filed a motion to strike his objections and to resubmit the objections. Also on October 21, 2019, Plaintiff submitted objections to the Report of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Magistrate Judge’s Report to which a specific objection is made. However, the district court need not conduct a de novo review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge’s proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

As an initial matter, Plaintiff’s motion to strike his October 17, 2019 objections (ECF No.

22) is **granted**. The court turns to Plaintiff's objections filed on October 21, 2019.

The gist of Plaintiff's objections appears to be that he is likely to succeed on the merits in the future on the following grounds:

1. Defendant's Motion to Dismiss - "pending" - in the Claims Court pages 1 through 5 front and back No. 19-1093C (Senior Judge Firestone) (five pages total)
2. Document titled: Jerome Eugene Todd Case No. 2:07-cr-00395-JUR-1 Analysis of Case 4.13.17 (A through G1.) (1 page total)
3. Indictment/United States v. Todd et al.-1 Filed "November" 21, 2007 (Exhibit 12) pages 1 and 6 (two pages total)
4. First Superseding Indictment/United States v. Todd et al., CR07-395JUR filed "February" 28, 2008 (Exhibit 13) (pages 1, 5, 6, 7, and 8) (five pages total)
5. Document Titled: REQUEST FOR ADMINISTRATIVE REMEDY; Administrative Remedy No. 943356-F1 Part B. - Response signed by Former Warden M. Joyner FCI Estill on 6/20/18
6. letter dated 8-18-19 Requesting four (4) copies from Jerome Eugene Todd... To CMC J. Brown FCI Estill 100 Prison Road CC: Clerk of Court of Federal Claims 717 Madison Place N.W. Washington D.C. 20439; cc: Clerk of Court U.S. District Court 300 East Washington Rm 239 Greenville S.C. 29601 ... and 7 Affidavit of Service from Hampton County Sheriffs Office signed and notarized by Rosa R. Orr {David Orr} South Carolina ... letter dtd 9/14/19 Ms Gordon Records Estill FCI ...
7. Court Docket Text/Orders on Motions; Case Name Todd v. Sullivan et al Case Number: 6:17-cv-02696-DCC Text Order stating in part: Plaintiff does not address any of the reasons that the Court determined that he failed to prosecute this case See ECF No. 52. Docket Text #96.

ECF No. 23-2, 2-3.

It appears that Plaintiff seeks to amend his motion for temporary restraining order upon the resolution of certain other matters involving other cases. Plaintiff does not object to specific any

portions of the Magistrate Judge's recommendation. Nevertheless, the court has thoroughly reviewed the Report of Magistrate Judge and concurs in his determination that Plaintiff has failed to show a likelihood of success on the merits. Should Plaintiff's circumstances change as he suggests, Plaintiff is not precluded from filing a properly supported motion for temporary injunction.

The court adopts the Report of Magistrate Judge and incorporates it herein by reference. Plaintiff's motion for temporary restraining order (ECF No. 9) is **denied**. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

May 14, 2020